

Appl. No.: 10/521,065
Amtd. dated August 11, 2008
Reply to Office Action of February 11, 2008

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Amendments to the Drawings:

Accompanying this amendment is a New Sheet with new Figure 1. The Applicants respectfully submit that new Figure 1 does not introduce any new matter. Rather, new Figure 1 merely illustrates the subject matter of claim 1, as amended.

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REMARKS/ARGUMENTS

A. Support for the Present Amendments

To more clearly point out and more distinctly claim the subject matter that the Applicants consider to be their invention, the Applicants amended Claims 1 and 2. Nonetheless, the Applicants respectfully submit that none of the present amendments introduces any new matter.

Specifically, limitations A, C, E and G of claim 1 and limitations 6, 7, and 8 of claim 2 were amended. Additionally, new claim 5 is added by this amendment.

Claim 1

The amendment to limitation A of claim 1 consisted of replacing the phrase "Notifying potential meeting attendees of said meeting" with the synonymous phrase – Providing potential meeting attendees of said meeting with a notification of said meeting --. Because the two phrases are synonymous, this change does not introduce any new matter. Thus, the Applicants respectfully submit that this amendment is adequately supported.

The amendment to limitation C of claim 1 consisted of replacing the phrase "checking" with the phrase – electronically checking --. Electronically checking is expressly described, among places, in paragraphs 14 – 29. Thus, the Applicants respectfully submit that this amendment is adequately supported.

The amendment to limitation E is to recite that whether a quorum is present is monitored during the course of the meeting. This aspect of the claimed subject matter is described in paragraph 14 where the above identified application states that the meeting participants are polled during the meeting to ensure that a quorum is maintained. While this paragraph does not

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expressly state that if the attendance falls below a quorum, then the meeting is adjourned, the Applicants respectfully submit that consequence is implied to one of ordinary skill in the relevant art. Thus, the Applicants respectfully submit that this amendment is adequately supported.

Limitation G of claim 1 was rewritten by inserting the word "Electronically" before the limitation. Given that the attendees who are the recipients of this electronic delivery are attending the meeting electronically, one of ordinary skill would have understood this limitation with or without the amendment in the same manner. Thus, the Applicants respectfully submit that this amendment is adequately supported.

In sum, each of the amendments to Claim 1 is adequately supported by the above identified application as originally filed.

Claim 2

In limitation 6 of claim 2, the word "the" was deleted. The Applicants respectfully submit that deleting this word does not change the scope of this limitation and that as amended, this limitation is adequately supported.

Limitation 7 adds the recitation that there is an "in-person attendance monitor" to the system of claim 2. The Applicants respectfully submit that one of ordinary skill in the relevant art would have understood that in at least some embodiments of the present invention there would necessarily be an "in-person attendance monitor". For instance, in paragraph 13, the above-identified application states that "[p]resence or attendance at the meeting shall be demonstrated by physical presence" Thus, the Applicants respectfully submit that this amendment is adequately supported.

Limitation 8 adds the recitation that there is a program evaluating input concern

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attendance. The Applicants respectfully submit that one of ordinary skill in the relevant art would have understood that in at least some embodiments of the present invention there would necessarily be a quorum evaluation. For instance, in paragraph 73 expressly states that "[w]hen the number of attendees is sufficient to constitute a quorum, the virtual meeting is called to order." Additionally, as noted above, attendance can also be by physical presence. Consequently, one of ordinary skill in the relevant art would have understood that the system would need to determine where a quorum was present taking into consideration both those physically present as well as those attendees who are virtually present. Thus, the Applicants respectfully submit that this amendment is adequately supported.

In sum, each of the amendments to Claim 2 is adequately supported by the above identified application as originally filed.

Claim 5

New claim 5 recites the limitation that an authorized attendee can transfer his/her right to attend a part of the meeting (while retaining the right to attend another part of the meeting) to another entity. Paragraph 66 of the above-identified application describes this embodiment of the present invention. Thus, the Applicants respectfully submit that this new claim is adequately supported.

B. Response to Prior Art Based Rejections

In the Office Action of February 11, 2008, the Examiner rejected claims 1 – 4 as either obvious or as anticipated by the prior art. Specifically, the Examiner rejected "Claim 2 . . . under 35 U.S.C. 102(e) as being anticipated by Noble (U.S. 2003/0061484 A1)." Additionally, the

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Examiner rejected Claim 1 "under 35 U.S.C. 103(a) as being unpatentable over Hotaling et al. (U.S. 5,124,912 A), in view of Noble (U.S. 2003/0061484 A1) and in further view of Chang et al. (U.S. 2001/0025299 A1). . . ." Finally, the Examiner rejected "Claims 3 and 4 . . . under 35 U.S.C. 103(a) as being unpatentable over Noble (U.S. 2003/0061484 A1), in view of what is old and well-known in the art." The Applicants respectfully traverse each of the Examiner's rejections and respectfully solicit an early allowance of the claims as amended.

Before addressing the specifics of the grounds asserted for the rejections of the claims, the Applicants are confused by the Examiner's statement in paragraph 13 of the present Office Action. Implicit in the Examiner's statement is an assertion that the Examiner need not set forth a sufficient statement of the grounds for a rejection. Clearly any such assertion is in error.

In the first instance, the Applicants note that one of the statutes cited by the Examiner, 35 U.S.C. § 102 states "A person *shall be entitled to a patent* unless . . .". (Emphasis added.) The clear language of the statute is that the burden of proving that the Applicants are not entitled to a patent is on the Examiner. An Examiner does not carry that burden unless the Examiner has cited a prior art reference that discloses each and every limitation of the claim being rejected and that the prior art reference disclosure arranges each and every limitation in the manner called for by the rejected claim. *E.g., Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458, 221 USPQ 481 (Fed. Cir. 1984) ("Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." *citing Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed.Cir. 1983)).

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Indeed, in the context of a rejection alleging that the claimed subject matter is obviousness, the Federal Circuit has spelt out the respective roles of the applicant and the Examiner – until such time as the Examiner has set forth a *prima facie* showing that the claimed subject matter is not patentable to this applicant, the Examiner must pass the application on to issuance. “During patent examination the PTO bears the initial burden of presenting a *prima facie* case of unpatentability.” *In re Glaug*, 283 F.3d 1335, 1338, 62 USPQ2d 1151 (Fed. Cir. 2002), *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). If the PTO fails to meet this burden, then the applicant is entitled to the patent. *Id.*

The Alleged Anticipation Rejection

The Examiner rejected “Claim 2 . . . under 35 U.S.C. 102(e) as being anticipated by Noble (U.S. 2003/0061484 A1).” In support of that rejection, the Examiner avers that:

Noble teaches a *system for conducting a virtual meeting comprising a computer having: associated memory and processing means for executing at least one program from said associated memory, at least one communication link that can send electronic signals to, and receive electronic signals from at least one remote user* in at least Figures 1 and 2 and associated text. Noble further teaches *at least one program including a meeting hosting program that receives instructions from users logged onto said computer and transmits such instructions to other users concurrently logged onto said computer, said at least one program including a authentication evaluating program, and said processing means executing said authentication evaluating program to enable said computer to*

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evaluate the whether a remote user seeking access to said computer is authorized to have such access in at least paragraph [0018]. (Emphasis in original)

Office Action at ¶ 14.

In the first instance, the record is devoid of any identification as what is the text associated with Figures 1 and 2 to which the Examiner refers. It is not proper procedure for an Examiner to require an Applicant to guess what is the basis of the present rejection. For this reason alone, the present rejection must be withdrawn.

Moreover, even if the two sections of the Noble application disclose that which the Examiner alleges they disclose, there is no showing in the record of the above identified application that established that these two separate disclosures are to be taken together. Indeed, cited paragraph 18 begins with the phrase "According to a third aspect of the present invention . . ." The Applicants respectfully submit that this text instructs the reader to not link disparate portions of the specification of the Noble reference.

Furthermore, Claim 2, as amended, also calls for:

an in-person attendance monitor providing input to said computer to apprise said computer of the in-person attendance; and

a second program evaluating input concerning attendance from both said in-person attendance monitor and said attendance evaluating program determines whether the attendance is at least a quorum.

The Applicants respectfully submit that the cited Noble reference does not teach or suggest such limitations arranged as set forth in Claim 2, as amended. Consequently, the present

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rejection of Claim 2 must be withdrawn. The Applicants respectfully solicit allowance of Claim 2, as amended, at an early date.

The Alleged Obviousness Rejections

The Examiner also rejected claims 1, 3 and 4 as rendered obvious by the prior art. As noted above, the Examiner rejected Claim 1 "under 35 U.S.C. 103(a) as being unpatentable over Hotaling et al. (U.S. 5,124,912 A), in view of Noble (U.S. 2003/0061484 A1) and in further view of Chang et al. (U.S. 2001/0025299 A1). . . ." The Examiner also rejected "Claims 3 and 4 . . . under 35 U.S.C. 103(a) as being unpatentable over Noble (U.S. 2003/0061484 A1), in view of what is old and well-known in the art." The Applicants respectfully traverse the Examiner's rejections.

Claim 1

With respect to Claim 1, the Examiner avers:

As per Claim 1, limitations A, B, C, and F, Hotaling, as shown, discloses "a meeting management device" that "enables the selected and hence, scheduled meeting date and time information to be sent to the specified invitees through electronic mail" and further teaches a device that allows the aforementioned transmission to include the equivalent of an agenda by disclosing, "screen 29 prompts the user to key in time, date, invitee and other information about the meeting" (see at least column 1, lines 52-55 and column 4, lines 5-9). Hotaling, further again, teaches a notice that complies with any applicable requirements by disclosing, "the comparison results in a determination of at least one common date and time of all specified invitees within the specified time requirements".

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Hotaling does not explicitly teach a notification including... a digital certificate that is sufficient to authorize the attendance of the specified invitees. Noble, however, discloses a system similar to that of Hotaling's and in at least paragraph [0040] describes one of its features by saying, "by means of the public certificate that it can prove the identity of the user... and can also confirm that the user is known and meets any entry requirements". Noble's system also discloses providing said electronic meeting space, which is evident in at least paragraph [0029] ("virtual meeting rooms"). Turning to paragraphs [0031] and [0044], Noble discloses, "client application may also use digital certificates to sign and encrypt transmitted information" and "Information sharing and voting". Here it is evident that Noble is teaching a system capable of delivering, collecting, and tabulating encrypted electronic ballots to those persons attending the meeting electronically. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to combine the device disclosed by Hotaling with the certificate/encryption based system disclosed by Noble. One would have been motivated to do so because this would enforce that users (or attendees) be held accountable for their submission in business negotiations (see Noble, in at least paragraph [0002]).

As per Claim 1, limitations D and E, Hotaling discloses an in-person meeting space in at least column 2, lines 1-6. Also, both Hotaling and Noble disclose systems to manage meetings electronically, yet neither explicitly teach monitoring the attendance in said electronic meeting space... and when a quorum

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of attendees is reached, calling said meeting to order, nor do they teach providing an orderly electronic discussion among the persons in attendance at the meeting. Chang, however, teaches an electronic meeting system where "at the time to begin a meeting... a condition to commencing a meeting is established, such as the requirement of a minimal number of members present (i.e. a quorum)" (see at least paragraph [0053]). Chang's system further includes means for providing an orderly electronic discussion among the persons in attendance at the meeting, which is evident in at least paragraph [0070] where Chang discloses, "a Client Session Manager (522) allowing the collaborator to visualize the state of the multi-threaded discussion, tender discussion comments, make motions, access the server databases, and communicate with other members in the assembly". Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to combine the system disclosed by Hotaling and Noble with the system disclosed by Chang. One would have been motivated to do so because this would allow meeting administrators to comply with the rules of formal meetings, which in turn "ensure the right of the majority, protect the rights of the minority, confine debate to the merits of the question under discussion and make the meeting run efficiently, clearly, and fairly" (see Chang, in at least paragraphs [0001]-[0008]).

Office Action at paragraph 18.

The Applicants respectfully submit that while the Examiner has purportedly characterized the cited art in the language of claim 2, the Examiner's use of the language of claim 2 in not

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consistent with the use of this language in the above identified application. Consequently, the Examiner has not made a *prima facie* showing that the claimed subject matter is obvious. Therefore the present rejection must be withdrawn.

In the first instance, the Applicants respectfully submit that the term "notice that complies with any applicable requirements" as used in Claim 1, is not the equivalent to "time, date, invitee and other [unspecified] information about the meeting". Nor is Hotaling's alleged disclosure of "the comparison results in a determination of at least one common date and time of all specified invitees within the specified time requirements" an equivalent. Rather, the Applicants respectfully submit that one of ordinary skill in the relevant art would understand that for, as an example, a notice of a special meeting of the shareholders of a corporation incorporated under the laws of the State of New York, a "Notice of a special meeting shall also state the purpose or purposes for which the meeting is called. N.Y. BUS. CORP. [BUSINESS CORPORATION] LAW § 605 (2003). Because the grounds for the present rejection do not identify where any of the cited references teach or suggests that a meeting notice would include a specific statement of the purpose of the meeting, the Examiner has not made a *prima facie* showing that the claimed subject matter would have been obvious at the relevant time.

Furthermore, while the Hotaling reference discloses an in-person meeting space, it is not in conjunction with an electronic meeting space. Rather, the in-person meeting space of the Hotaling reference is the exclusive meeting space.

Indeed, if the Hotaling reference is understood appropriately, it is merely the use of an electronic system to schedule an in-person meeting. Once the notices and acceptances for the meeting are issued and received, the Hotaling reference does not teach or suggest any

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management of an electronic meeting. Indeed, it is contrary to the teaching of Hotaling that the attendance of the meeting is monitored electronically. Hotaling merely schedules the meeting and associated places and equipment. Thus, for this further reason, the Examiner has not made a *prima facie* showing that the claimed subject matter would have been obvious at the relevant time.

Furthermore, the Applicants respectfully note that the Hotaling reference and the Noble and Chang references are each directed to meetings in mutually exclusive spaces. Hotaling only contemplates in-person meetings whereas both Noble and Chang only contemplate virtual meetings. At the time the present invention was made, one of ordinary skill would not have combined an in-person with a virtual meeting in general, and more so when the combined meeting would have to meet formalities be they those of an organization's by-laws or those of a state's corporate law.

In sum, the present rejection misconstrues the claims and therefore does not identify the differences between the claimed subject matter and the cited art. Moreover, the present rejection misconstrues the cited art. Consequently the present rejection does not set forth a *prima facie* showing that the claimed subject matter is obvious. Therefore the present rejection must be withdrawn.

Claim 3

With respect to Claim 3, the Examiner avers that:

Noble, as shown, discloses the limitations of claim 1 as described above. Noble, further discloses, "the client application 402 has local data storage 408 that stores data held for one or more meetings in which the user 412 is

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participating". Noble does not explicitly teach *with proceedings from at least one physical meeting space concurrent with said virtual meeting*. However, it would be obvious to one of ordinary skill in the art, at the time the invention was made, to allow one of the multiple meetings disclosed by Noble to be a physical meeting. One would have been motivated to do so because this would allow businesses to reduce the frustration of rescheduling meetings when one or more critical members cannot physically attend. (Emphasis in original)

Office Action at paragraph 20.

The Examiner provides no basis for his assertion that "it would be obvious to one of ordinary skill in the art, at the time the invention was made, to allow one of the multiple meetings disclosed by Noble to be a physical meeting." Rather the Examiner's statement is an unsupported legal conclusion and therefore improper.

Indeed, the express disclosure of the Noble reference quoted by the Examiner is inconsistent with having one of the multiple meetings as a physical meeting. Specifically, as quoted by the Examiner, Noble discloses "client application 402 has local data storage 408 that stores data held for one or more meetings . . ." The Applicants are unaware of any way in which a physical meeting can be stored in said local data storage 408. Therefore none of the multiple meetings could be a physical meeting.

Moreover, the Applicants do not understand the motivation alleged by the Examiner that having a physical and a virtual meeting would reduce the frustration of rescheduling when one or more critical members cannot physically attend. Rather, it appears that this motivations leads to exclusively having a virtual meeting. Indeed, the response to the alleged motivation would be to

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have a virtual meeting that the members could attend at their convenience provided that a quorum attended within a specified period of time. The Applicants' claimed subject matter compounds the difficulties of an in-person meeting with the difficulties of a virtual meeting without the benefits of either.

For these reasons, the Applicants have not set forth a prima facie showing that the claimed subject matter is obvious. Consequently the present rejection must be withdrawn and the claim allowed.

Claim 4

With respect to Claim 4, the Examiner avers that:

Noble does not **explicitly** teach *in which said means for providing users with proceedings includes at least one of the group consisting of a camera means and a microphone means*. However, EXAMINER TAKES OFFICIAL NOTICE that using a camera or a microphone for providing the proceedings of a physical meeting is old and well-known in the art. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to combine a camera or microphone with the system disclosed by Noble. One would have been motivated to do so because this would allow businesses to reduce the frustration of rescheduling meetings when one or more critical members cannot physically attend.

Office Action at paragraph 20.

Assuming that it is "old and well-known in the art" to use a camera or a microphone for providing the proceedings of a physical meeting, that is not the subject matter of claim 4 and thus

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the "Official Notice" does not render the claimed subject matter obvious. Rather, the claimed subject matter comprises providing virtual attendees of a meeting with the visual or oral proceedings of a concurrent live meeting. Consequently, the Examiner has not made a prima facie showing that the claimed subject matter is obvious. Therefore the present rejection must be withdrawn.

Applicants also petition under 37 CFR § 1.136(a) for a three month extension of time to respond to the Office Action dated February 11, 2008. The applicants, individually and collectively, are a small entity. It is believed that the fee for a three month extension of time to respond under 37 C.F.R. § 1.17(a)(1)-(a)(5) is \$525.00. Please charge Deposit Account No. 16-0605 for the extension fee.

Additionally, please charge, and credit any overpayment, to Deposit Account No. 16-0605 for any fee deficiency.

Respectfully submitted,



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